

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, NOVEMBER 14, 2006

The Council of the City of San José convened in regular session at 9:01 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Chavez, Chirco, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager. Gonzales.

Absent: Council Members - Campos, Cortese. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room T1841; (A) to discuss Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Title: Director, Planning; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the cases of: (1) Claim of Hernandez, (2) Claim of Johnson, (3) Ghilarducci v. City of San José, et al., (4) City of San José v. Nibbi Brothers, Inc., and (5) Comcast of California II, L.L.C. v City of San José and Comcast of California II, L.L.C.; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex; Employee Organizations: (1) Operating Engineers, Local 3, and (2) International Association of Firefighters (IAFF).

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Chavez, Chirco, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager. Gonzales.

Absent: Council Members - Campos, Cortese. (Excused)

INVOCATION

California Line Dance Association of America (CLDAA). (District 10)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2).
Absent: Campos, Cortese (Excused).

City Manager Les White announced the appointment of Joe Horwedal as Director of Planning Building and Code Enforcement.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the week of November 12-18, 2006 as National Hunger and Homelessness Awareness Week. (Housing)

Action: Mayor Gonzales and Director of Housing Leslye Krutko recognized the week of November 12-18, 2006 as “National Hunger and Homelessness Awareness Week.

1.2 Presentation of a commendation congratulating the San José Holiday Parade Team. (Parks, Recreation and Neighborhood Services)

Action: Mayor Gonzales recognized and commended the San José Holiday Parade Team for their outstanding efforts.

1.3 Presentation of a commendation recognizing various City departments for best practices in employee recognition efforts. (Human Resources)

Action: This item was deferred to November 21, 2006.

1.4 Presentation of a commendation to Herschel Higgins for his heroic service to the United States of America during World War II. (Pyle) (Rules Committee referral 11/01/06)

Action: Mayor Gonzales and Council Member Pyle recognized and commended Mr. Herschel Higgins for his heroism during World War II.

1.5 Presentation of a proclamation declaring November 15th as San José Recycles Day. (LeZotte) (Rules Committee referral 11/01/06)

Action: Mayor Gonzales and Council Member LeZotte recognized November 15, 2006 as “San José Recycles Day”.

- 1.6 Presentation of commendations to Don and Maria Blankenship, Evelynn Cook, Al Hagmann, Ron and Mona Schwartz, and Jon Talbert for becoming District 1 Heroes through their commitment to building 1 community in West San José. (LeZotte)**
(Rules Committee referral 11/01/06)

Action: Mayor Gonzales and Council Member LeZotte recognized and commended all the District 1 Heroes.

- 1.9 Presentation of a commendation to Sony, a global manufacturer of audio, video, game, communications, key device and information technology products for the consumer and professional markets, for its business decision to maintain a presence in San José and contributing to the City's world-class spirit of innovation. (Office of Economic Development)**
(Rules Committee referral 11/08/06)

Action: Mayor Gonzales and Director of Economic Development Paul Krutko recognized and commended Sony for maintaining a presence in San José and contributing to the City's spirit of innovation.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2). Absent: Campos, Cortese.

- 2.1 Approval of Minutes.**
(a) Regular minutes of January 10, 2006
(b) Regular minutes of January 24, 2006
(c) Regular minutes of January 31, 2006

Documents Filed: The regular minutes dated January 10, 2006, January 24, 2006 and January 31, 2006.

Action: The minutes were approved. (9-0-2). Absent: Campos, Cortese.

- 2.2 Final adoption of ordinances.**
(a) ORD. NO. 27885 – Rezoning certain real property situated on the southwesterly corner of Eberly Drive and Neilson Court to A(PD) Planned Development Zoning District. PDC04-091
[Deferred from 10/17/06- Item 2.2(d), 10/24/06 – Item 2.2(a) and 10/31/06 – Item 2.2(a)]

Action: Deferred to November 21, 2006.

- 2.2 (b) **ORD. NO. 27897 – Rezoning certain real property situated on the south side of University Avenue approximately 100 feet northerly of Myrtle Street to A(PD) Planned Development Zoning District. PDC02-002**

Documents Filed: Proof of publication of title of Ordinance No. 27897, executed October 31, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27897](#) was adopted. (9-0-2). Absent: Campos, Cortese.

- (c) **ORD. NO. 27898 – Prezoning certain real property situated at the south side of Manila Drive and Curie Drive, west of San Ignacio Avenue to OS Open Space Zoning District. C06-072**

Documents Filed: Proof of publication of title of Ordinance No. 27898, executed October 31, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27898](#) was adopted. (9-0-2). Absent: Campos, Cortese.

- (d) **ORD. NO. 27899 – Prezoning certain real property situated at the north corner of Montague Expressway and Seely Avenue to IP Industrial Park. C06-083**

Documents Filed: Proof of publication of title of Ordinance No. 27899, executed October 31, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27899](#) was adopted. (9-0-2). Absent: Campos, Cortese.

- (e) **ORD. NO. 27900 – Prezoning certain real property situated west of Montague Expressway approximately 600 feet north of Seely Avenue to OS Open Space Zoning District. C06-083**

Documents Filed: Proof of publication of title of Ordinance No. 27900, executed October 31, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27900](#) was adopted. (9-0-2). Absent: Campos, Cortese.

- (f) **ORD. NO. 27901 – Rezoning certain real property situated at the southwest corner of Stevens Creek Boulevard and Palace Drive (4500 Stevens Creek Boulevard) to A(PD) Planned Development Zoning District. PDC04-043**

Documents Filed: Proof of publication of title of Ordinance No. 27901, executed October 31, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27901](#) was adopted. (9-0-2). Absent: Campos, Cortese.

- 2.2 (g) **ORD. NO. 27902 – Rezoning certain real property situated on the east side of Bird Avenue, approximately 200 feet north of Willow Street (1070 Bird Avenue), to A(PD) Planned Development Zoning District to allow up to two residential units on an approximately 0.30 gross acre site. PDC06-028**

Documents Filed: Proof of publication of title of Ordinance No. 27902, executed October 31, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27902](#) was adopted. (9-0-2). Absent: Campos, Cortese.

- 2.3 (a) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) **Increase the estimate for Earned Revenue by \$221,000.**
 - (2) **Establish an appropriation to the Department of Transportation for the Alum Rock Village Median Island and Pedestrian Improvement Project (PSM #471) in the amount of \$72,000.**
 - (3) **Establish an appropriation to the Department of Public Works for the Improvement District 99-218SJ Deferral of Assessments Fiscal Year 2006-2007 Project (PSM #472) in the amount of \$149,000.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Alum Rock Village Median Island and Pedestrian Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated September 28, 2006.**

CEQA: Exempt, PP06-171. Council District 5. SNI: Greater Gardner. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Lisenbee, dated October 25, 2006, recommending Council adoption of Appropriation Ordinance and Funding Sources Resolution amendments for Services for Redevelopment Capital Projects Fund.

Action: [Ordinance No. 27903](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Alum Rock Village Median Island and Pedestrian Improvement Project and the Improvement District 99-218SJ Deferral of Assessments for Fiscal Year 2006-2007 Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73481](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund" and [Resolution No. 73482](#), entitled: "Resolution of the Council of the City of San Jose Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Alum Rock Redevelopment Project Area", were adopted. (9-0-2). Absent: Campos, Cortese.

2.4 Acceptance of the 2006 First and Second Quarter Arena Ticket Distribution Program Reports as submitted by the San José Arena Authority. CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Deputy City Manager McFadden, dated October 25, 2006, recommending acceptance of the First and Second Quarter Arena Ticket Distribution Program Report by the San Jose Arena Authority.

Action: The 2006 First and Second Quarter Arena Ticket Distribution Program Reports were accepted. (9-0-2). Absent: Campos, Cortese.

* **Item 2.5 was heard immediately following Item 4.3, Page 20.**

2.6 Approval of an agreement with Allana Buick & Bers, Inc., for consultant services for the Environmental Services Building Repair Project, from the date of execution until July 31, 2008, in an amount not to exceed \$282,300 for basic services plus \$28,500 for additional services, for a total amount not to exceed \$310,800. CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Environmental Services Director Stufflebean, dated October 25, 2006, recommending approval of an agreement with Allana Buick & Bers, Inc. for consultant service. (2) Letter from the Treatment Plant Advisory Committee, dated November 9, 2006, stating concurrence with the Staff recommendation.

Action: The agreement with Allana Buick & Bers, Inc. was approved. (9-0-2). Absent: Campos, Cortese.

2.7 Approval of Contract Change Order No. 3 with Anderson Pacific Engineering Construction, Inc. for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, FY 2003-2004 Capital Improvement Program, Filter Influent and Effluent Flow Meter Replacement Project," to increase the construction contingency amount by \$13,550 from \$46,700 to \$60,250 for a total contract amount not to exceed \$527,250. Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Environmental Services Director Stufflebean, dated October 25, 2006, recommending approval of Contract Change Order No. 3 with Anderson Pacific Engineering Construction, Inc. (2) Letter from the Treatment Plant Advisory Committee, dated November 9, 2006, stating concurrence with the Staff recommendation.

Action: Contract Change Order No.3 with Anderson Pacific Engineering Construction, Inc. was approved. (9-0-2). Absent: Campos, Cortese.

2.8 Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute the first amendment to the Web Streaming Software Installation and Hosting Services Agreement, with Granicus Inc. for the purchase of additional application software licenses and related installation services, increasing the compensation by \$18,950 from \$98,553 to a not to exceed amount of \$117,503 for the contract term ending July 31, 2007.**
- (b) Exercise three additional one-year options to renew ongoing maintenance and support services subject to the appropriation of funds.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Finance Director Johnson, dated October 25, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73484](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a First Amendment to the Web Streaming Software Installation and Hosting Services Agreement with Granicus Inc. for the Purchase of Additional Web Streaming Software Licenses and Related Installation Services", was adopted. (9-0-2). Absent: Campos, Cortese.

2.9 Approval of actions related to the Lake Cunningham Regional Park Project.

Adoption of a resolution:

- (a) Amending the allocation of amounts for application for local assistance from the State of California, Resources Agency, Department of Parks and Recreation under the 2002 Resources Bond Act (Proposition 40) Per Capita Grant Program shifting the Lake Cunningham Playground ADA and Renovation Project allocation in the amount of \$831,000 to the Lake Cunningham Skatepark and Perimeter Landscaping Project;**
- (b) Authorizing the City Manager to submit the grant application to the State of California;**
- (c) Authorizing the City Manager to accept the grant, if awarded, and to negotiate and execute any documents necessary to effectuate the grant.**

CEQA: Mitigated Negative Declaration, PP06-043. Council District 8. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated October 25, 2006, recommending adoption of a resolution.

2.9 (Cont'd.)

Action: This item pulled from the Consent Calendar by Council Member LeZotte for brief questions regarding ADA compliance. Upon motion by Council Member LeZotte, seconded by Council Member Williams, and carried unanimously, [Resolution No. 73485](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Amend the Allocation of Amounts for Local Assistance for the Lake Cunningham Skatepark and Perimeter Landscaping Project, to Submit an Application to the Per Capita Grant Program Under 2002 Resources Bond Act as Administered by the State of California – The Resources Agency, Department of Parks and Recreation, to Shift the Local Assistance Grant Funds of Up to \$831,000 and to Negotiate and Execute Any Documents Necessary to Effectuate the Grant”, was adopted. (9-0-2). Absent: Campos, Cortese.

2.10 Approval of the agreement between the County of Santa Clara and the City of San José regarding the provision of the Criminal Justice Information Control System (CJIC) for the period of July 1, 2006 to June 30, 2007 for a total not to exceed amount of \$145,000. CEQA: Not a Project. (Police)

Documents Filed: Memorandum from Police Chief Davis, dated October 25, 2006, recommending approval of the agreement between the County of Santa Clara and the City relative to Criminal Justice Information Control System services.

Action: The agreement between the County of Santa Clara and the City of San José was approved. (9-0-2). Absent: Campos, Cortese.

2.11 Adoption of a resolution of intention to vacate a portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street, and setting a public hearing on December 5, 2006 at 1:30 p.m. CEQA: Exempt. Council District 3. SNI: Washington. (Public Works)

Documents Filed: Memorandum from Public Works Director Allen, dated October 25, 2006, recommending Council adoption of a resolution.

Action: [Resolution No. 73486](#), entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of a Public Alleyway Between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street”, was adopted. (9-0-2). Absent: Campos, Cortese.

2.12 Adoption of a resolution of intention to vacate a public sanitary sewer easement lying immediately east of McGinness Avenue approximately 600 feet north of Story Road and setting a public hearing on December 12, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, CP05-034. Council District 5. SNI: East Valley/680. (Public Works)

2.12 (Cont'd.)

Documents Filed: Memorandum from Public Works Director Allen, dated October 25, 2006, recommending Council adoption of a resolution.

Action: [Resolution No. 73487](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate the Public Sanitary Sewer Easement Lying Immediately East of McGinness Avenue, Approximately 600 Feet North of Story Road", was adopted. (9-0-2). Absent: Campos, Cortese.

2.13 Approval to reject all bids for the Silicon Valley Intelligent Transportation System West Corridor Project and authorize the Director of Public Works to re-advertise and re-bid the project. CEQA: Exempt, PP-02-07-194. (Public Works/ Transportation)

Documents Filed: Memorandum from Public Works Director Allen and Transportation Director Helmer, dated October 25, 2006, recommending Council reject all bids for the Silicon Valley Intelligent Transportation System West Corridor Project and authorize Public Works Director to re-advertise and re-bid project.

Action: The rejection of all bids and authorization to re-advertise and re-bid the project were approved. (9-0-2). Absent: Campos, Cortese.

**2.14 Approval of nominations to the San José Silicon Valley Workforce Investment Network Board. (Mayor)
(Rules Committee referral 11/08/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated November 8, 2006, recommending Council approval of his nominations to the San Jose Silicon Valley Workforce Investment Network Board of Directors.

Action: The nominations of Marcia Franks, Van Le and Paul R. Hay to the San José Silicon Valley Workforce Investment Network Board were approved. (9-0-2). Absent: Campos, Cortese.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – October 25, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Reports dated October 25, 2006, November 1, 2006 and the Partial Rules Report dated November 8, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review November 7, 2006 Draft City Council Agenda -
None – Meeting Cancelled

- (2) Add New Items to October 31, 2006 Agenda

The Committee approved the October 31, 2006 Agenda with six additions.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

- (c) Legislative Update

- (1) State
 - (2) Federal
No Reports.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Price, dated October 19, 2006, transmitting items for the public record and administration for the period of October 11 - 17, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Request the City Manager to assess Code Enforcement-the General Code Compliant Handling Process and the Fee Based Multi-Family Dwelling Program. Attachment: Memorandum from Planning, Building and Code Enforcement Director Horwedel, dated October 5, 2006, recommending acceptance of staff report on improvements to the General Code Complaint Handling Process and fee-based Multiple Housing Program. (Deferred from October 11, 2006 and October 18, 2006)

Deferred to November 8, 2006 Rules Committee meeting.

3.2 Report of the Rules Committee – October 25, 2006
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
- (2) Urgency Ordinance prohibiting the use of automobile/bus/truck horns in residential neighborhoods for any reason other than emergency warning of traffic hazard. Attachment: (1) Memorandum from City Attorney Doyle, dated October 13, 2006, transmitting the Attorney's Office analysis as to whether an ordinance can be adopted by the City; and (2) Memorandum from Council Member LeZotte, dated October 25, 2006, recommending Council direct staff to investigate whether current operations of Royal Coach Tours constitute an Adverse Public Impact and move forward in revoking their legal non-conforming status.
(Deferred from October 18, 2006)

The Committee deferred this item to the Planning, Building and Code Enforcement Department for further investigation as recommended. Staff agreed to return to Rules with an update, when appropriate.

- (3) Work Load Assessment of Dividing the City's Energy Expenditures by Department. (LeZotte)

The Committee recommended that Council Member LeZotte's ideas be incorporated into the November 21, 2006 Green Building Policy memorandum and upcoming January 25, 2007 Energy Study Session discussion.

- (4) Referral to Staff to Institute a Volunteer Disabled Parking Enforcement Program. (LeZotte)

The Committee directed Staff to return to the Rules Committee on November 15, 2006 with a work load assessment and legal implications to institute a volunteer disabled parking enforcement program.

- (h) Review of Significant Public Records Act Requests - There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.
- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 2:33 p.m.

3.2 Report of the Rules Committee – November 1, 2006 Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review November 14, 2006 Draft City Council Agenda
 - (a) Adds to the November 7, 2006 Draft City Council Agenda

The Committee approved the draft City Council Agenda with six additions.

- (2) Add New Items to November 7, 2006 Council Agenda

None – Meeting Canceled.

- (3) List of Reports Outstanding - There were no outstanding reports.

- (c) Legislative Update

- (1) State
 - (2) Federal
- No Reports.

- (d) Meeting Schedules

- (1) Approval to cancel the Regular Rules Committee Meeting on November 22, 2006 and set a Rules In-Lieu Meeting for that same date. Attachment: Memorandum from City Clerk Price, dated October 27, 2006, recommending the change.
 - (2) Approval to set a Budget Study Session on November 28, 2006 from 9:00 a.m. to Noon in Council Chambers. Attachment: Memorandum from Budget Director Lisenbee, dated October 26, 2006, recommending approval of the Budget Study Session.

The Committee recommended approval.

- (e) The Public Record. Attachment: Memorandum from City Clerk Price, dated October 26, 2006, transmitting items for the public record and administration for the period October 18-25, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees

- (1) Review (Oral Presentation) of the Project Diversity Screening Committee process for interviewing and recommending applicants for Boards and Commissions. (City Clerk)

There were none.

3.2 Report of the Rules Committee – November 1, 2006
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approval of the revised All Children Achieve Work Plan. Attachment: Memorandum from Mayor Gonzales and Council Member Yeager, dated October 23, 2006, recommending approval of the revised work plan.

The Committee approved the revised All Children Achieve Work Plan.

- (2) Approval of Travel by Council Member Campos to attend the League of California Cities Board of Director's Meeting. Attachment: Memorandum from Council Member Campos, dated October 24, 2006, requesting approval of travel.

The Committee approved the travel request.

- (h) Review of Significant Public Records Act Requests - There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.
- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 2:37 p.m.

Report of the Rules Committee (Partial) – November 8, 2006
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (2) 2006 National League of Cities (NLC) voting delegate at the Annual Business Meeting. (Campos/Intergovernmental Relations)

The Committee appointed Council Member Campos as the delegate at the NLC Annual Business meeting.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the Rules/Partial Rules Committee Reports and the Actions of October 25, 2006, November 1, 2006 and November 8, 2006, were accepted. (9-0-2).
Absent: Campos, Cortese.

3.4 Military Leave Programs for City Employees:

- (a) Approval to continue to provide supplemental pay and benefits, pursuant to Resolution No. 73180, to employees who are military reservists and who are called to active duty.**
- (b) Direction to staff to continue to work to resolve the pending issues involving the military reconciliation process and implement procedures to help minimize these issues in the future.**

CEQA: Not a Project. (Employee Relations/Finance)

(Rules Committee Referral 10/18/06)

(Deferred from 10/31/06 – Item 3.4)

Documents Filed: (1) Memorandum from Vice Mayor Chavez and Council Member Campos, dated October 17, 2006, recommending that Rules Committee add an item to the October 24, 2006 City Council agenda entitled: “Discussion and/or action related to the City’s Military Leave Programs for City Employees.” (2) Informational memorandum from Mayor Gonzales, dated October 26, 2006, reminding the City Council and City staff of previous direction on this matter. (3) Memorandum from City Attorney Doyle, dated October 26, 2006, regarding the legal issues of recovering overpayment of employee pay. (4) Memorandum from Director of Finance Johnson and Director of Employee Relations Gurza, dated October 26, 2006, recommending approval to continue to provide supplemental pay and benefits, and direction to staff to continue to work to resolve the pending issues.

Director of Employee Relations Alex Gurza responded to Council questions.

Public Comments: Frank Leffer stated support for the proposed actions to support City employees who are serving overseas. Ross Signorino commented that employees who were overpaid by the City should have brought it to the immediate attention of the City.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the Military Leave Programs for City Employees was approved, with the following direction: (1) That the City Council authorize the City Manager to designate a Deputy City Manager to act as the Military Liaison for City Employees. (2) That the City Manager report back to Council by December 5, 2006, regarding the status of Reconciliation for Retirement Contributions and Retirement Service Credit between Payroll and Retirement Services. (3) That Staff provide a written policy regarding how supplemental pay will be processed and report back to Council by December 5, 2006. (4) Direct the City Attorney to review options regarding overpayment and report back to Council by December 5, 2006. (5) Apply the extension of benefits to probationary employees who are called to duty. (6) Make the Supplemental Pay Program available to all employees who are called to service longer than 30 days. (7) Direct Staff to report back to Council regarding the status of the above issues by December 5, 2006, and quarterly thereafter, for the duration of Operation Enduring Freedom (OEF) and amended to include Operation Iraqi Freedom (OIF). (9-0-2). Absent: Campos, Cortese.

3.5 Approval of revisions to Council Policy 7-2 related to the use of City Hall.

- (a) Acceptance of the staff report on events at City Hall.**
- (b) Adoption of resolutions setting forth a revised fee schedule related to use of City Hall and superseding Resolution No. 72940, and approving revisions to Council Policy 7-2 related to use of City Hall to provide for:**
 - (1) Free events Sunday through Friday for Official City Business in the Rotunda, Council Chambers, Plaza and Bamboo Garden, subject to certain limitations; and**
 - (2) Seasonal displays in lobbies.**
- (c) Adoption of a resolution revising Council Policy 2-1 for the exhibition of Federal, State, City and ceremonial flags at City buildings to clarify that flags of the governments recognized by the United States may be displayed upon the request of the Mayor, a member of the City Council or the City Manager.**

CEQA: Resolution No. 68905. Council District 3. SNI: University. (General Services)

(Deferred from 10/24/06 - Item 3.5)

Documents Filed: (1) Memorandum from Director of General Services Jensen, dated November 2, 2006, recommending approval of revisions to Council Policy 7-2 related to the use of City Hall and Council Policy 2-1 related to the exhibition of flags at City buildings. (2) Copies of Staff's overhead visual presentation regarding City Hall Facility Use. (3) Memorandum from City Attorney Doyle, dated November 8, 2006, regarding the constitutional parameters of temporary holiday displays in the City Hall lobby.

Director of General Services Peter Jensen and Special Events Manager Connie Bowles outlined the City Hall Facility Use Report and responded to Council inquiries.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Staff report on events at City Hall was accepted; [Resolution No. 73488](#), entitled: "A Resolution of the Council of the City of San José Amending the Schedule of Fees for Use of the City Hall and Plaza"; [Resolution No. 73489](#), entitled: "A Resolution of the Council of the City of San José Amending the Master Facility Use Policy for City Hall and Superseding Resolution No. 72940.1"; and [Resolution No. 73490](#), entitled: "A Resolution of the Council of the City of San José Approving an Amendment to City Council Policy No. 2-1 Regarding the Exhibition of Federal, State, City and Ceremonial Flags from City Buildings", were adopted. (7-0-4). Absent: Campos, Chirco, Cortese, Yeager.

3.6 Acceptance of the status report in telecommunication legislation and negotiations for Project Lightspeed.

- (a) Acceptance of report on recent State action establishing a statewide franchising system for video services and implications on AT&T's encroachment permit applications for its Project Lightspeed.
- (b) Restate the City's willingness to expedite encroachment permits for Project Lightspeed infrastructure upon AT&T's acknowledgement that it will obtain a franchise prior to offering video services.

CEQA: Not a Project. (City Manager's Office)

Action: This item was deferred to December 5, 2006.

3.7 Acceptance of Proposal for Renewal of Cable Franchise.

- (a) Approval to consider the recommendation below pursuant to the Early Distribution Process Rules (2/3 vote required).
- (b) Approval of an Ordinance Granting a Cable Franchise to Comcast of California II, LLC.
- (c) Approval of an Ordinance Amending Chapter 15.28 of Title 15 of the San José Municipal Code to regulate the occupancy and use of Public rights of way by cable systems and Open video systems, and/or;
- (d) Approval of an ordinance amending Ordinance No. 22128 (Cable Television Franchise).

CEQA: Not a Project. (Environmental Services)
(Rules Committee referral 11/1/06)

Documents Filed: Memorandum from City Manager White and City Attorney Doyle, dated November 3, 2006, recommending approval to consider the recommendation and approval of ordinances. (2) Supplemental memorandum from City Manager White and City Attorney Doyle, dated November 9, 2006, providing Council with an alternative to the Acceptance of the Comcast Formal Proposal for Renewal of Cable franchise. (3) Proof of publication of Public Notice, executed November 3, 2006, submitted by the City Clerk, regarding consideration of approval of an ordinance providing for the renewal of a cable franchise with Comcast of California.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez, and carried unanimously, Item (a), approval to consider the recommendation below pursuant to the Early Distribution Process Rules was granted (2/3 vote required). (9-0-2). Absent: Campos, Cortese.

Public Outreach Manager Tom Manheim presented an overview of the Comcast Franchise Renewal.

Public Comments: Cathy Brandhorst spoke off topic. Scott McDonough criticized Comcast.

3.7 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, [Ordinance No. 27904](#), entitled: "An Ordinance of the City of San José Granting a Cable Franchise to Comcast of California, II LLC to Construct and Operate a Cable System to Provide Cable Service Within a Franchise Area Within the City of San José; Establishing the Terms and Conditions of the Franchise Grant; and Establishing Certain Remedies for the Violation of the Franchise"; [Ordinance No. 27905](#), entitled: "An Ordinance of the City of San Jose Amending Chapter 15.28 of Title 15 of the San Jose Municipal Code to Regulate the Occupancy and Use of Public Rights-of-Way by Cable Systems and Open Video Systems, to Provide for Establishment of Customer Service Standards; Establishing Franchise and Licensing Requirements for Operators of Such System and to Prescribe Minimum Charges, Terms, and Conditions for and Upon the Construction, Maintenance, and Repair of Such Systems"; and [Ordinance No. 27906](#), entitled: "An Ordinance of the City of San José Approving an Amendment of the Terms of Ordinance No. 22128, Granting a Nonexclusive Cable Television Franchise to Comcast of California, Successor to Gill Industries, Inc., dba GillCable, Renewing, Amending and Extending the Franchise", were passed for publication. (9-0-2). Absent: Campos, Cortese.

3.8 Discussion and possible action on Health Benefit Changes for Council Members and Mayor, as recommended by Council Member LeZotte:

- (a) Approval to consider the recommendations below pursuant to the Early Distribution Process Rules (2/3 vote required).
- (b) Discussion and possible action on the following:
 - (1) Staff to provide Council with requirements and costs for providing lifetime medical to the Mayor and Council Members, who have served two full terms through PERS medical coverage to be effective prior to January 1, 2007.
 - (2) Staff to provide Council with options/requirements for switching from City medical coverage to PERS medical coverage with sufficient time for the Mayor or Council Member to decline city coverage during the Open Enrollment period – November 1 – 17th and opt in to the PERS medical coverage.

CEQA: Not a Project. (LeZotte)
(Rules Committee referral 11/1/06)

Action: This item was deferred to December 5, 2006.

3.9 Approval of actions to call and add a Special Election on March 6, 2007 to fill a vacancy in District 4.

- (a) Adopt a resolution calling for a Special Election on March 6, 2007, and a Runoff Election on June 5, 2007, if necessary, to fill the upcoming vacancy in District 4 for the balance of the term expiring December 31, 2008 and requesting services of the County Registrar of Voters.

(Item continued on the next page)

- 3.9 (b) **Approve an ordinance delegating authority to the City Clerk to take actions which may supersede provisions of state law in order to facilitate elections on March 6, 2007 and June 5, 2007.**
- (c) **Direct the City Manager to, as part of the 2006-2007 Mid-Year Budget Review, allocate resources to cover the costs of the District 4 Special and Runoff Elections.**

(Mayor)

(Rules Committee referral 11/8/06)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated November 9, 2006, recommending adoption of a resolution and an ordinance and direction to the City Manager. (2) Memorandum from City Attorney Richard Doyle, dated November 13, 2007, recommending approval of an ordinance.

Public Comment: Cathy Brandhorst spoke off topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the City Manager was directed, as part of the 2006-2007 Mid-Year Budget Review, to allocate resources to cover the costs of the District 4 Special and Runoff Elections, and [Resolution No. 73491](#), entitled: "A Resolution of the Council of the City of San José Calling for a Special Municipal Election to be Held in Council District 4; Establishing the Dates for and the Procedures to Conduct and Take Actions with Regard to the Election; Requesting the Board of Supervisors of the County of Santa Clara to Consolidate the Special Municipal Election With Any Other Elections That May be Called and Conducted on March 6, 2007 and a Municipal Run-off Election if Necessary with the State Primary Election on June 5, 2007; Requesting the Board of Supervisors to Canvass the Returns of Said Election and to Permit the County Registrar of Voters to Render Certain Services to the City of San José Relating to the Conduct of Said Election; and Delegating to the City Clerk the Authority to Take Other Actions with Regard to the Election", was adopted; and [Ordinance No. 27907](#), entitled: "An Ordinance of the Council of the City of San José Providing Authorization to Conduct and Take Actions with Regard to the Holding of an Election to Fill a Vacancy in the Office of Councilmember, District 4", was passed for publication. (9-0-2). Absent: Campos, Cortese.

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – October 23, 2006 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report dated October 23, 2006.

4.2 Report of the Driving a Strong Economy Committee – October 23, 2006 (Cont'd.) Council Member Williams, Chair

- (a) Homeless Plan Implementation (Housing). Attachment: Memorandum from Director of Housing Leslye Krutko, dated October 6, 2006, recommending approval of the report.

The Committee accepted the Staff Report.

- (b) Economic Indicators (Economic Development)

The Committee accepted the Staff Report.

- (c) Economic Impact of Downtown Entertainment and Cultural Events (Economic Development)

The Committee accepted the Staff Report.

- (d) Oral Petitions - None were presented.

- (e) Adjournment - The meeting was adjourned at 3:20 p.m.

Public Comment: Cathy Brandhorst and George Fokos spoke off topic.

Action: Upon motion by Council Member Williams, Vice Mayor Chavez, and carried unanimously, the Driving a Strong Economy Committee Report and the Actions of October 23, 2006, were accepted. (9-0-2). Absent: Campos, Cortese.

4.3 Approval of an agreement for the Economic Development Catalyst Program.

- (a) **Adoption of a resolution authorizing the City Manager execute an Investment Management Agreement with Pacific Community Ventures (PCV) as the Investment Manager for an Economic Development Catalyst Program (EDCP) to create a resource for strategic investment to support the growth and expansion of San José's small businesses, for a term of 10 years and a City capital commitment of up to \$3 million to capitalize the EDCP.**
- (b) **Adoption of a resolution authorizing the City Manager to exercise up to two 5-year options to extend the agreement at the City's discretion.**
- (c)
 - (1) **Approval to consider the recommendations below pursuant to the Early Distribution Process Rules (2/3 vote required).**
 - (2) **Adoption of amendments to the annual appropriations ordinance to:**
 - (a) **Establish an appropriation to the Office of Economic Development for the Economic Development Catalyst Program project in the amount of \$1,000,000.**
 - (b) **Decrease Ending Fund Balance in the amount of \$1,000,000.**

CEQA: Not a Project. (Economic Development)

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated October 25, 2006, recommending adoption of a resolution and approval to extend the agreement. (2) Supplemental memorandum from Director of Economic Development Paul Krutko and Budget Director Larry Lisenbee, dated November 7, 2006, providing additional information.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, approval to consider the recommendations below pursuant to the Early Distribution Process Rules (2/3 vote required), was granted, under Item 4.3(c)(1). (9-0-2). Absent: Campos, Cortese.

Economic Development Director Krutko stated the Staff recommendation should be amended to request authorization to “negotiate and execute” the agreement. Brief discussion followed.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the Staff recommendation, as amended, was approved, and [Resolution No. 73492](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Pacific Community Management, Inc for Fund Management Services for an Economic Development Catalyst Program”; and [Ordinance No. 27908](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Economic Development Enhancement Fund for the Economic Development Catalyst Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (9-0-2). Absent: Campos, Cortese.

CONSENT CALENDAR

2.5 Adoption of a resolution certifying that:

- (a) **The City of San José’s Revolving Loan Fund (RLF) Plan is consistent with and supportive of the area’s current economic adjustment strategy; and**
- (b) **The RLF is being operated in accordance with the policies and procedures contained in the RLF plan, and the loan portfolio meets the standards.**

CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Economic Development Director Krutko, dated October 25, 2006, recommending adoption of a resolution for the annual Revolving Loan Fund certification.

Director of Economic Development Paul Krutko responded to Council questions.

2.5 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, [Resolution No. 73483](#), entitled: "A Resolution of the Council of the City of San José Certifying that (1) The City's Revolving Loan Fund is Consistent with and Supportive of the Area's Current Economic Adjustment Strategy, and (2) That the Revolving Loan Fund is Being Operated in Accordance with Certain Policies and Procedure", was adopted, with Staff requested to include more information regarding yield in future reports., (9-0-2). Absent: Campos, Cortese.

COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Approval of a contract with GlobalFluency for regional, national and international public relations services.

- (a) Approval of a contract not to exceed \$200,000 with GlobalFluency for regional, national and international public relations services.
- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:
 - (1) Increase the earned revenue estimate for Local Agencies by \$100,000;
 - (2) Reduce the City Outreach and Education Efforts by \$100,000;
 - (3) Establish a Citywide appropriation to the City Manager's Office for National/International Public Relations in the amount of \$200,000.

CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Director Harry S. Mavrogenes, dated November 1, 2006, recommending approval of an agreement and adoption of an ordinance.

Economic Development Director Krutko presented an outline of the proposal by GlobalFluency for public relations services.

Public Outreach Manager Tom Manheim and Director of Economic Development Paul Krutko responded to Council questions.

Public Comments: Ross Signorino spoke in opposition to the proposed actions because of the costs. George Fokos, Robert Apgar and Cathy Brandhorst spoke off topic.

Motion: Council Member Williams moved approval of the Staff recommendation. Council Member Pyle seconded the motion.

Vice Mayor Chavez requested to amend the motion by incorporating the following: develop a work plan addressing how the \$200,000 will be used to design a successful program over multiple years; delineate buy-in that might include public and private sector partners within the Valley; collaborate with Santa Clara Valley Transportation Authority, San José State University and the City's lobbyists. The amendments were accepted by Council Members Williams and Pyle.

4.4 (Cont'd.)

Council Member Williams requested to add to his motion to send the work to Driving a Strong Economy Committee for review and discussion.

Council Members Reed and Yeager expressed opposition to the motion because the goals appear too big and/or broad.

Action: On a call for the question, the motion carried, the contract with GlobalFluency was approved and [Ordinance No. 27909](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the General Fund for National/International Public Relations; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and [Resolution No. 73493](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund”, were adopted; and Staff was requested to: (1) Develop a work plan addressing how the \$200,000 will be used to design a successful program over multiple years; (2) Delineate buy-in that might include public and private sector partners within the Valley; (3) Collaborate with Santa Clara Valley Transportation Authority, San José State University and the City’s lobbyists; (4) Send the work to Driving a Strong Economy Committee to review and discuss. (7-2-2. Noes: Reed, Yeager. Absent: Campos, Cortese.)

4.20 **Consideration of an ordinance amending Chapter 23.04 of Title 23 of the San José Municipal Code (the Sign Code), to modify the provisions for skyline signs in the area of the City located north of US 101 and west of I-880 for buildings of less than 85 feet in height located on parcels with narrow building frontage. CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 2, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on October 31, 2006, submitted by the City Clerk.

Public Comment: Scott Smithers (Divco West) spoke in support of the proposed ordinance amendment.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, [Ordinance No. 27910](#), entitled: “An Ordinance of the City of San José Amending Section 23.04.020 of Chapter 23.04 of Title 23 of the San José Municipal Code to Allow More Flexible Placement of Skyline Signs on Buildings Less than Eighty-five Feet in Height and With a Narrow Street Frontage in Certain Locations of the City”, was passed for publication. (9-0-2). Absent: Campos, Cortese.

NEIGHBORHOOD SERVICES

5.2 Adoption of a resolution:

- (a) **Approving funding for the implementation of the Promoting Growth and Early Self-Sufficiency (PROGRESS) Program, a Tenant-Based Rental Assistance (TBRA) program for up to 15 chronically homeless individuals or families for two years from March 1, 2007 to March 1, 2009 at a cost not to exceed \$645,000, to be funded from HOME Investment Partnership Funds.**
- (b) **Approving an amendment to the City's 2006-2007 Annual Action Plan to allow for a TBRA program under the HOME guidelines.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated October 25, 2006, recommending adoption of resolutions.

Public Comments: Sandy Perry and Maria Gonzalez representing Community Homeless Alliance Ministry (CHAM); Michelle Romera, First Christian Church; and Liz Marquez expressed support for the recommendation. Robert Apgar spoke concerning homeless shelters.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, [Resolution No. 73494](#), entitled: "A Resolution of the Council of the City of San José (I) Approving Funding for the Implementation of the Promoting Growth and Early Self-sufficiency (Progress) Program, a Tenant-based Rental Assistance (TBRA) Program for Up to 15 Chronically Homeless Individuals or Families for a Period of Two Years at a Cost Not to Exceed \$645,000, to be Funded from Home Investment Partnership Funds and (II) Approving an Amendment to the City's 2006-2007 Annual Action Plan to Allow for a TBRA Program Under the Home Guidelines", was adopted. (9-0-2). Absent: Campos, Cortese.

5.3 **Approval of an amendment to the Selma Olinder Park Master Plan to include a dog park. CEQA: Addendum to Negative Declaration, PP06-127. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 25, 2006, recommending approval of the amendment.

Public Comments: Joan Rivas-Cosby, Five Wounds Brookwood Terrace NAC, spoke in support of the proposed amendment.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco, and carried unanimously, the amendment to the Selma Olinder Park Master Plan was approved. (9-0-2). Absent: Campos, Cortese.

TRANSPORTATION & AVIATION SERVICES

6.2 Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with Central Parking Systems for the management of the City's downtown parking garages and surface lots for three (3) years at an estimated cost of \$3,477,670 annually to the City, and approve additional contingency funds of \$250,000 to compensate the vendor for reimbursable expenses incurred for services such as staffing for special events beyond normal operations and other enhanced services, for a total amount not to exceed \$3,727,670.**
- (b) Execute three, one-year options to renew the agreement subject to annual Consumer Price Index price adjustments and annual appropriations.**
- (c) Execute amendments to the agreement to add or delete parking facilities based upon the criteria in the agreement such as type and/or size of parking facility, activity, required staffing and/or maintenance, subject to additional appropriations.**

CEQA: Not a Project. (Finance)

Action: This item was deferred to December 5, 2006.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:54 p.m. to consider Items 9.2 and 9.2 in a Joint Session.

9.1 Approval to issue a Request for Proposal for the development and lease of the City Hall Retail Project.

- (a) Approval of the issuance of a Request for Proposals (RFP) to solicit interest for the development and lease of 6,278 square feet of retail space in San José City Hall.**
- (b) Direction to Staff to return to Council on November 21, 2006 with:**
 - (1) A Cooperation Agreement between the City and the Redevelopment Agency.**
 - (2) An appropriation action related to City Hall Retail for \$500,000.**

CEQA: Not a Project. Council District 3. (City Manager's Office/ Redevelopment Agency)

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Director Harry S. Mavrogenes, dated November 2, 2006, recommending approval of the proposals.

Council questions to staff followed.

Council Members LeZotte, Reed and Yeager opposed the staff recommendation because they felt it was being requested outside of the budget process.

9.1 (Cont'd.)

Public Comment: George Fokos spoke in favor of the proposed actions.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried, the issuance of the Request for Proposal for the development and lease of the City Hall Retail Project, and the direction to Staff to return to Council on November 21, 2006, as indicated, were approved. (6-3-2. Noes: LeZotte, Reed, Yeager. Absent: Campos, Cortese.)

9.2 Approval of actions related to expanding the San José McEnery Convention Center.

- (a) **Approval to consider the recommendations below pursuant to the Early Distribution Process Rules (2/3 vote required).**
- (b) **Direct the City Manager, Redevelopment Agency Executive Director, and City Attorney to initiate the formation of a Mello-Roos Community Facilities District for the purposes of expanding the convention center, and to return to the City Council with specific recommendations for the structure and financing of a district.**
- (c) **Direct the Executive Director to determine the potential scope and design of a project to expand the convention center in the context of funding through a Mello-Roos Community Facilities District by using \$500,000 in the Agency's FY 2006-2007 budget identified for this project.**
- (d) **Direct both the Agency Director and the Manager to continue the City's active partnership with San José Convention and Visitors Bureau, Team San José, and local hotel general managers as this concept for the convention center is launched, developed, and implemented.**

(Mayor)

(Rules Committee referral 11/01/06)

Documents Filed: Memorandum from Mayor Gonzales, dated November 8, 2006, recommending the direction as outlined above.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, approval to consider the recommendations pursuant to the Early Distribution Process Rules was granted. (9-0-2). Absent: Campos, Cortese.

Public Comments: Cyril Isnard (The Fairmont), Dan Fenton (San José Convention & Visitors Bureau) and George Fokos spoke in support of the proposed actions. William Garbett spoke in opposition to the recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the directions to the City Manager and Redevelopment Executive Director to expanding the San José McEnery Convention Center, were approved. (9-0-2). Absent: Campos, Cortese.

The Redevelopment Agency Board Portion of the meeting was adjourned at 5:23 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9805	N side of Auzerais Ave., between Sunol St and Los Gatos Creek	6	KB Home South Bay, Inc.	20 Lots / 383 Units	MFAR	Approve
9820	E side of Page St, 460' N of Chiechi Ave.	6	Serena Homes, Corp.	1 Lot / 4 Units	SFDR/ SFAR	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9879	W side of Boynton Ave., 520' N of Akron Way	1	Russell Mahzoon	5 Lots / 4 Units	Single Family Attached

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in October 2006:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Butcher Dog Park Project	9	Jensen Corporation Landscape Construction	\$566,333	10/5/06
Taylor Street Improvement Project (N. First Street to Coleman Avenue)	3	Wattis Construction Company, Inc.	\$961,330	10/23/06
Traffic Signal Installation at Balbach Street and Market Street	3	Pacific Electric Company	\$246,240	10/26/06

OPEN FORUM

- (1) Mark Trout voiced religious views.
- (2) Scott McDonough expressed dissatisfaction with Comcast Cable and added they are not providing all the services obligated by the Franchise Agreement.
- (3) Ross Signorino congratulated Council Member Reed and Vice Mayor Chavez on their campaigns for Mayor.
- (4) Robert Apgar presented personal observations.
- (5) George Fokos shared thoughts about homelessness, schools and City cleanliness.

RECESS/RECONVENE

The Council of the City of San José recessed at 5:34 p.m. and reconvened at 7:00 p.m. in the Council Chambers, City Hall

Present: Council Members - Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams; Gonzales.

Absent: Council Members - Campos, Cortese (Excused).

City Clerk Price read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, the below noted continuances were granted. (9-0-2).
Absent: Campos, Cortese.

CEREMONIAL ITEMS

- 1.8 Presentation of a commendation to Dr. David Reed, DVM for his excellent work organizing the first ever Indoor Pet Fair of San José. (Reed)
(Rules Committee referral 11/08/06)**

Action: Mayor Gonzales and Council Member Reed recognized and commended Dr. David Reed for his outstanding work in organizing the first Indoor Pet Fair.

- 1.7 Presentation of a commendation to The Links, Incorporated, a National African American college educated service group of approximately 10,000 throughout the United States, South Africa and the Bahamas for its dedication for fostering volunteerism within its members and nurturing our youth to becoming successful individuals. (Williams)
(Rules Committee referral 11/08/06)**

Action: Mayor Gonzales and Council Member Williams recognized and commended The Links, for its dedication and efforts to the youth in the community.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.5 Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Story No. 59 on approximately 3.58 ± acre County Pocket containing four (4) parcels on the Southeasterly corner of Story Road and Machado Lane and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service (Numerous Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)
(Continued from 10/24/06 – Item 4.4)**

4.5 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73495](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Story No. 59, Subject to Liability for General Indebtedness of the City", was adopted. (9-0-2). Absent: Campos, Cortese.

4.6 **Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Sunol No. 74 on approximately 1.7 acre County Pocket consisting of 11 parcels on the south side of Paula Street, west of Race Street and the implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement) (Continued from 10/24/06 – Item 4.5)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 25, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73496](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Sunol No. 74, Subject to Liability for General Indebtedness of the City", was adopted. (9-0-2). Absent: Campos, Cortese.

- 4.7 Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Sunol No. 75 on approximately 3.6 acre County Pocket consisting of 13 parcels on the north side of Paula Street, east of Northrup Street, and the west side of Lincoln Avenue south of Interstate 280 and north of Paula Street and the implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)
(Continued from 10/24/06 – Item 4.6)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 25, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73497](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Sunol No. 75, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0-2). Absent: Campos, Cortese.

- 4.8 Public Hearing and adoption of a resolution on the reorganization/ annexation to the City of San José of territory designated as Sunol No. 76 on approximately 1.8 acre County Pocket consisting of 13 parcels on the north side of Paula Street, west of Northrup Street and the implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)
(Continued from 10/24/06 – Item 4.7)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

4.8 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Council Member Chirco, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73498](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Sunol No. 76, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0-2). Absent: Campos, Cortese.

4.9 **Public Hearing and adoption of a resolution on the reorganization/ annexation to the City of San José of territory designated as Cambrian No. 35 on approximately 2.55 acre County Pocket consisting of 9 parcels on the southwesterly corner of Bascom Avenue and Curtner Avenue and the implementation of the annexation would result in the detachment of properties within the annexation area from West Valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 9. (Planning, Building and Code Enforcement) (Continued from 10/24/06 – Item 4.8)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 25, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Planning, Building and Code Enforcement Director Horwedel stated the Staff report should be amended to show the subject acreage to be 2.41 acres.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, the Staff recommendation as amended was approved, and [Resolution No. 73499](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Cambrian No. 35, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0-2). Absent: Campos, Cortese.

4.10 **Adoption of a resolution initiating proceedings, and setting a public hearing on January 9, 2007 at 7:00 p.m. for the reorganization of territory designated as Monterey Park No. 110 which involves the annexation to the City of San José of an approximately 42.6 acre County pocket containing 3 parcels on the East side of Coyote Rd., 1700 ft. northerly of Silver Creek Valley Rd. and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)**

4.10 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27, 2006, recommending adoption of a resolution.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73500](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Monterey Park No. 110, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (9-0-2). Absent: Campos, Cortese.

4.11 **Adoption of a resolution initiating proceedings, and setting a public hearing on January 9, 2007 at 7:00 p.m. for the reorganization of territory designated as Oak Grove No. 70 which involves the annexation to the City of San José of an approximately 14.84 gross acre County Pocket consisting of portions of 7 parcels on the south side of Manila Dr. and Curie Dr., west of San Ignacio Ave. and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27 2006, recommending adoption of a resolution.

Planning, Building and Code Enforcement Director Horwedel stated the Staff report

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, the Staff recommendation as amended was approved, and [Resolution No. 73501](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Oakgrove No. 70, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (9-0-2). Absent: Campos, Cortese.

- 4.12 **Adoption of a resolution initiating proceedings, and setting a public hearing on January 9, 2007 at 7:00 p.m. for the reorganization of territory designated as Berryessa No. 68 which involves the annexation to the City of San José of an approximately 15.3 gross acre County Pocket consisting of 2 parcels on the Southeast corner of Capitol Ave. & Hostetter Rd. and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)**

Action: This item was dropped, to be renoticed.

- 4.13 **Adoption of a resolution initiating proceedings, and setting a public hearing on January 9, 2007 at 7:00 p.m. for the reorganization of territory designated as Story No. 61 which involves the annexation to the City of San José of an approximately 3.7 gross acre area consisting of 5 parcels located on the north side of Story Rd., 780 ft. westerly of Machado Lane and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)**

Action: This item was dropped, to be renoticed.

- 4.14 **Adoption of a resolution initiating proceedings, and setting a public hearing on January 9, 2007 at 7:00 p.m. for the reorganization of territory designated as Story No. 63 which involves the annexation to the City of San José of an approximately 4.23 gross acre area consisting of 3 parcels located on the southeast side of Story Lane, 870 ft. northeasterly of Clayton Rd. and detachment of the same from the appropriate special districts properties including Central Fire Protection, Area No. 01 (Library Services) County Service, and County Lighting (County Service). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)**

Action: This item was dropped, to be renoticed.

- 4.15 **Adoption of a resolution initiating proceedings, and setting a public hearing on January 9, 2007 at 7:00 p.m. for the reorganization of territory designated as Orchard No. 148 which involves the annexation to the City of San José of an approximately 37.9 acre County pocket consisting of 3 parcels on the northerly side of Seely Ave., west of Montague Expressway and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 4. (Related Rezoning C06-083). (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27 2006, recommending adoption of a resolution.

4.15 (Cont'd.)

Planning, Building and Code Enforcement Director Horwedel stated the Staff report should be amended to show the subject acreage to be 36.09 acres.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, the Staff recommendation as amended was approved, and [Resolution No. 73502](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Orchard No. 148, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (9-0-2). Absent: Campos, Cortese.

4.16 **Adoption of a resolution initiating proceedings, and setting a public hearing on January 9, 2007 at 7:00 p.m. on the reorganization of territory designated as McKee No. 132 which involves the annexation to the City of San José of an approximately 10.57 gross acre County Pocket consisting of one parcel on the southwesterly corner of Capitol Avenue and Gimelli Way and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459 (Related Prezoning C06-044). Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27 2006, recommending adoption of a resolution.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73503](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as McKee No. 132, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (9-0-2). Absent: Campos, Cortese.

4.17 **Public Hearing and adoption of a resolution on the reorganization of territory designated as Piedmont No. 51 which involves the annexation to the City of San José of a 2.3 gross acres of land located at the southwesterly side of Stone Creek Drive, approximately 120 feet southerly of Isadora Drive, and the detachment of the same from the appropriate special districts including County Lighting County Service, Central Fire Protection and Area No. 01. (Library Services) County Service Districts. CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)**

4.17 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27 2006, recommending adoption of a resolution.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73504](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited, Unincorporated Island Territory Designated as Piedmont No. 51, Subject to Liability for General Indebtedness of the City", was adopted. (9-0-2). Absent: Campos, Cortese.

4.18 Public Hearing and adoption of a resolution on the reorganization of the territory designated as Penitencia No. 73 which involves the annexation to the City of San José of an approximately 7-acre County Pocket containing twenty-eight parcels on the southeast side of Mabury Road, east of King Road, and the detachment of the same from the appropriate special districts including County Lighting County Service, Central Fire Protection and Area No. 01. (Library Services) County Service Districts. CEQA: Resolution No. 65459. Council District 3. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27 2006, recommending adoption of a resolution.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73505](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Penitencia No. 73, Subject to Liability for General Indebtedness of the City", was adopted. (9-0-2). Absent: Campos, Cortese.

4.19 Public Hearing and adoption of a resolution on the reorganization of the territory designated as Cypress No. 30 which involves the annexation to the City of San José of an approximately 3.4 acre County pocket containing fifteen parcels on both sides of Maria Way and Antonio Lane and the west side of Essex Way, extending approximately 180 feet north of Valley Forge Way, and the detachment of the same from the appropriate special districts including West Valley Sanitation, Central Fire Protection and Area No. 01 (Library Services) County Service Districts and County Lighting County Service Districts. CEQA: Resolution No. 65459. Council District 1. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated October 27 2006, recommending adoption of a resolution. (2) Letter from a member of the public dated October 29. 2006, regarding the annexation of Cypress #30.

Public Comments: Mayor Gonzales opened the Public Hearing. Mara Williams and Virginia Petery spoke in opposition to the proposed reorganization. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member LeZotte, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, and [Resolution No. 73506](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Cypress No. 30, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0-2). Absent: Campos, Cortese.

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Nguyen, seconded by Council Member Pyle, and carried unanimously, the General Plan Consent Calendar was tentatively approved and the below listed actions were taken as indicated. (11-0.)

10.1 Tentative approval of General Plan Consent Calendar items.

- (a) The items being considered are for property located generally on both sides of Towers Lane, between Aborn Road and Amberly Lane on an approximately 3.4-acre site (Various Owners/City of San José, Applicant).
 - (1) Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium Low Density Residential (8 DU/AC). SNI: West Evergreen. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP06-07-05 - District 7
 - (2) Consideration of a City Council initiated Conventional Rezoning ordinance, rezoning the property from R-1-2 Single-Family Residence Zoning District to R-1-8 Single-Family Residence Zoning District to allow single family residential uses. SNI: West Evergreen. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).
CC06-058 - District 7

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-058, dated October 16, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated October 26, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on October 13, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: The Public Hearing was closed, the recommendation of the Planning Commission and Planning Director were tentatively approved, and [Ordinance No. 27911](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated in the West Evergreen Strong Neighborhoods Initiative Area and Located Generally on Both Sides of Towers Lane, Between Aborn Road and Amberly Lane, to R-1-8 Single-Family Residence District”, was passed for publication. (9-0-2). Absent: Campos, Cortese.

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

GENERAL PLAN PUBLIC HEARINGS

- 10.2 Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) on 4.84 acres to Medium Density Residential (8-16 DU/AC) on a 3.48- acre portion and Private Open Space on a 1.36-acre portion of a 4.64-acre site located at the southeasterly portion of Valley Christian School campus, 210 feet westerly of Del Rey Avenue (South Valley Christian Church, Owner/Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0; Zito Opposed).
GP05-02-05 - District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-02-05, dated October 12, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated October 16, 2006, transmitting the Planning Commission recommendation of the subject property.

Action: The applicant has withdrawn the amendment request. No Council action taken.

- 10.3 Continuance of all General Plan amendment actions to December 5, 2006. (Planning, Building and Code Enforcement)**

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the public hearing was closed, and the final approval of the tentative actions taken by Council on General Plan items at this meeting were continued to December 5, 2006. (8-0-2). Absent: Campos, Cortese, Reed.

END OF GENERAL PLAN HEARINGS

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Yeager, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2). Absent: Campos, Cortese.

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the east side of North 2nd Street, approximately 140 feet northerly of St. James Street from CG Commercial General Zoning District to DC Downtown Commercial Zoning District to allow commercial uses within a designated City Landmark building on a 0.43 gross acre site (240 N. 2nd St.) (Bel Aire Inv. Inc., Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Resolution No. 65459.**

C06-031 - District 3

[Continued from 10/3/06 – Item 11.1(c) and 10/24/06 – Item 11.1(a)]

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-031, dated September 5, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated September 13, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on September 1, 2006, submitted by the City Clerk. (4) Letter from a member of the public dated November 14, 2006, regarding the subject property.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: The recommendation of the Planning Commission and Planning Director was approved, the public hearing was closed and [Ordinance No. 27912](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of North 2nd Street, Approximately 140 Feet Northerly of St. James Street to DC Downtown Commercial Zoning District”, was passed for publication. (9-0-2). Absent: Campos, Cortese.

- (b) Consideration of an ordinance rezoning the real property located on the south side of Story Road approximately 150 feet east of Adrian Way from CO Commercial Office Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.24 gross acre site (2250 Story Rd.) (José and Ana Canales, Owner). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. SNI: East Valley/680 Communities. CEQA: Resolution No. 65459.**

C06-096 - District 5

[Continued from 10/24/06 – Item 11.1(c)]

11.1 (b) (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-096, dated September 29, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on October 13, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. The Public Hearing was closed.

Action: The recommendation of the Planning Commission and Planning Director was approved, the public hearing was closed and [Ordinance No. 27913](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Story Road Approximately 150 Feet East of Adrian Way (2250 Story Road) to CP Commercial Pedestrian Zoning District", was passed for publication. (9-0-2). Absent: Campos, Cortese.

- (c) **Consideration of a Director initiated prezoning from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes on an approximate 15.3 gross acre area consisting of 2 parcels on the southeast corner of Capitol Avenue and Hostetter Road, (Bianchi, Clara Trustee; Santa Clara Valley Transit Authority, owners). CEQA: GP EIR Resolution No. 65459. (Related Annexation Berryessa No. 68). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required.**

C06-074 - District 4

[Continued from 10/24/06– Item 11.1(g)]

Action: Continued to January 23, 2007.

- (d) **Consideration of a City Council initiated Conventional Rezoning ordinance, rezoning the property from R-1-2 Single-Family Residence Zoning District to R-1-8 Single-Family Residence Zoning District to allow single family residential uses. SNI: West Evergreen. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).**

CC06-058 - District 7

[Item 11.1(d) heard under 10.1(a)(2)].

Action: See Item 10.1(a)(2) where Council action was taken and [Ordinance No. 27911](#) was passed for publication.

- 11.1 (e) **Consideration of an ordinance rezoning the real property located on the west side of South 9th Street approximately 90 feet south of E. William Street from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and Planned Development Permit to add one manager's unit to 59 previously approved efficiency living units for a total of 60 efficiency living units on a 0.34 gross acre site (525 S. 9th St.) (City of San José, A Muni Corp, Owner; First community Housing, Jeff Oberdorfer, Developer). SNI: University. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

PDC06-099/PD06-047 - District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-099/PD06-047, dated October 31, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on October 31, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: The public hearing was closed, the recommendation of the Planning Commission and Planning Director for rezoning of the property to A(PD) Planned Development Zoning District and Planned Development Permit to add one manager's unit to 59 previously approved efficiency living units for a total of 60 efficiency living units on a 0.34 gross acre site (525 S. 9th St.), was approved, and [Ordinance No. 27914](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the West Side of South 9th Street Approximately 90 Feet South of East William Street to A(PD) Planned Development Zoning District", was passed for publication, and [Resolution No. 73507](#), entitled: "A Resolution of the City Council of the City of San José, Granting, Subject to Conditions, A Planned Development Permit to Allow the Use of Certain Real Property Described Herein for Construction of Sixty (60) Efficiency Residential Units", was adopted. (9-0-2). Absent: Campos, Cortese.

- (f) **Consideration of a Director initiated prezonning ordinance prezonning an approximately 0.9 gross acre area consisting of 2 parcels on the west side of Fleming Avenue 350 feet northerly of Warner Avenue from unincorporated county to R-1-5 Single Family Residence District. (Ramos Family Trust; Gutierrez, Ernesto, Owners). CEQA: Resolution No. 65459. (Related Annexation Story No. 62). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-079 - District 5

11.1 (f) (Cont'd.)

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-079, dated October 25, 2006, recommending approval on the subject property.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: The public hearing was closed, the recommendation of the Planning Director for the rezoning of the property to R-1-5 Single Family Residence District, was approved, and [Ordinance No. 27915](#), entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Fleming Avenue, 350 Feet Northerly of Warner Avenue, to R-1-5 Single Family Residence Zoning District", was passed for publication. (9-0-2). Absent: Campos, Cortese.

- (g) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 8.6 gross acre area consisting of 9 parcels on both sides of Perrymount Avenue, southwesterly of Stone Avenue from unincorporated county to HI Heavy Industrial Zoning District for heavy industrial purposes. (Numerous Owners). CEQA: Resolution No. 65459. (Related Annexation Monterey Park No. 108). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-048 - District 7

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-048, dated October 26, 2006, recommending approval on the subject property.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: The public hearing was closed, the recommendation of the Planning Director for the rezoning of the property to HI Heavy Industrial Zoning District for heavy industrial purposes, was approved, and [Ordinance No. 27916](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on Both Sides of Perrymount Avenue, Southwesterly of Stone Avenue, to HI Heavy Industrial Zoning District", was passed for publication. (9-0-2). Absent: Campos, Cortese.

- 11.1 (h) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 4.6 gross acre area consisting of 2 parcels on the Northwestern corner of Curtner Avenue and Stone Avenue from unincorporated county to HI Heavy Industrial Zoning District for heavy industrial purposes. (Blank, Christine; Owner). CEQA: Resolution No. 65459. (Related Annexation Monterey Park No. 109). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-051 - District 7

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-051, dated October 26, 2006, recommending approval on the subject property.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: The public hearing was closed, and the recommendation of the Planning Director for the rezoning of the property to HI Heavy Industrial Zoning District for heavy industrial purposes, was approved, and [Ordinance No. 27917](#), entitled: "An Ordinance of the City of San Jose Rezoning Certain Real Property Situated at the Northwestern Corner of Curtner Avenue and Stone Avenue to HI Heavy Industrial Zoning District", was passed for publication. (9-0-2). Absent: Campos, Cortese.

- (i) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.1 gross acre site consisting of 1 parcel located on the west side of Kettmann Road, approximately 75 feet southerly of Dashwood Avenue from unincorporated county to R-1-8 Single Family Residence Zoning - for single family residential purposes. (Bic Pho, Owner). CEQA: Resolution No. 65459. (Related Annexation Evergreen No. 196). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-052 - District 8

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-052, dated July 24, 2006, recommending approval on the subject property.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

11.1 (i) (Cont'd.)

Action: The public hearing was closed and the recommendation of the Planning Director for the rezoning of the property to HI Heavy Industrial Zoning District for heavy industrial purposes, was approved, and [Ordinance No. 27918](#), entitled: “An Ordinance of the City of San Jose Rezoning Certain Real Property Situated at the West Side of Kettmann Road, Approximately 75 Feet Southerly of Dashwood Avenue, to R-1-8 Single Family Residence Zoning District”, was passed for publication. (9-0-2). Absent: Campos, Cortese.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.2 Consideration of an appeal of the Planning Director's decision to deny a Tentative Map Permit to subdivide two parcels into 16 lots for single-family detached residential uses on a 684.5 gross acre site in the R-1-1 Single-Family Residence Zoning District, located approximately 500 feet east of Almaden Road and 500 feet west of McKean Road. CEQA: Environmental Review: Incomplete. Director of Planning, Building and Code Enforcement recommends to uphold the Director's decision to deny. No Planning Commission action required.
T06-051 – District 10**

Action: Continued to December 5, 2006.

- 11.3 Consideration of an ordinance rezoning the real property located on the southwest corner of Meridian Avenue and Curci Drive from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow a Residential Care Facility (Senior Assisted Living) with up to 98 units above an underground parking facility (993 Meridian Ave.) (Merrill Gardens at Willow Glen LLC, Owner). CEQA: Mitigated Negative Declaration.
PDC05-091 - District 6**

Action: Continued to December 5, 2006.

- 11.4 Consideration of an ordinance rezoning the real property located at/on the southeast corner of Foxworthy and Leigh Avenues from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 23 single family detached residences on a 1.68 gross acre site (3002 Leigh Ave.) (Leigh Ave. Partners, LLC, Owner; Dal Properties LLC, Mark Lazzarini, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends conditional approval. Planning Commission recommended approval of applicant's proposal (4-2-0-1).
PDC06-055 - District 9**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-055 dated October 19, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated October 26, 2006, transmitting the Planning Commission recommendation of the subject property with conditions. (3) Proof of Publication of Notice of Public Hearing, executed on October 13, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

11.4 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams, and carried unanimously, the public hearing was closed, and the recommendation of the Planning Commission and Planning Director for rezoning the property to A(PD) Planned Development Zoning District to allow up to 23 single family detached residences on a 1.68 gross acre site (3002 Leigh Ave.), was approved, and [Ordinance No. 27919](#), entitled: "An Ordinance of the City of San Jose Rezoning Certain Real Property Situated at the Southeast Corner of Foxworthy and Leigh Avenues to A(PD) Planned Development Zoning District", was passed for publication. (9-0-2). Absent: Campos, Cortese.

ADJOURNMENT

The Council of the City of San José adjourned at 7:30 p.m. in memory of Ira F. Brilliant, who founded and contributed extensively to the Ira F. Brilliant Center for Beethoven Studies at San José State University; and Ms. Lydia Elizalde who dedicated her life to bettering her community and is survived by her friends and loving family of 8 children, 24 grandchildren, and 18 great grandchildren.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/11-14-06MIN

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